

### § 301.91-3

### 7 CFR Ch. III (1-1-09 Edition)

#### § 301.91-3 Regulated areas.

#### MAINE

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, the State, or any portion thereof, in which European larch canker has been found by an inspector or in which the Deputy Administrator has reason to believe that European larch canker is present, or any portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to a European larch canker infestation or its inseparability for quarantine enforcement purpose from localities in which European larch canker occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of European larch canker.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

*Hancock County.* The entire townships of Gouldsboro, Serrento, Sullivan, Winter Harbor, 7th Southern Division, 9th Southern Division, 10th Southern Division, and 16th Middle Division.

*Knox County.* The entire townships of Appleton, Camden, Cushing, Friendship, Hope, Owls Head, Rockland City, Rockport, South Thomaston, St. George, Thomaston, Union, Warren, and Washington.

*Lincoln County.* The entire townships of Alna, Boothbay Harbor, Bremen, Bristol, Damariscotta, Edgecomb, Jefferson, New-castle, Nobleboro, Somerville, Southport, Waldoboro, Westport, and Wiscasset.

*Waldo County.* The entire townships of Lincolnville and Searsmont.

*Washington County.* The entire townships of Addison, Baring, Beals, Calais City, Centerville, Charlotte, Cherryfield, Columbia, Columbia Falls, Cooper, Cutler, Debolis, Dennysville, East Machias, Eastport, Edmunds, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion, Marshfield, Meddybemps, Milbridge, Northfield, Plantation 14, Pembroke, Perry, Robbinston, Roque Bluffs, Steuben, Trescott, Whiting, Whitneyville, 18th Eastern Division, 18th Middle Division, and 19th Middle Division.

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#### § 301.91-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.<sup>2</sup>

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.91-5 and 301.91-8 of this subpart; or

(b) Without a certificate or limited permit;

(1) If moved to a contiguous regulated area; or

(2)(i) If moved directly through (moved without stopping except under normal traffic conditions such as traffic lights or stop signs) any regulated area in an enclosed vehicle or in an enclosed container on a vehicle to prevent the introduction of European larch canker;

<sup>2</sup>Requirements under all other applicable Federal domestic plant quarantines must also be met.

(ii) If the article originated outside of any regulated area; and

(iii) If the point of origin of any article is clearly indicated by shipping documents and its identity has been maintained.

**§ 301.91-5 Issuance and cancellation of certificates and limited permits.**

(a) A certificate shall be issued by an inspector, except as provided in paragraph (c) of this section, for the movement of a regulated article if such inspector:

(1)(i) Determines based on inspection of the premises of origin that the premises are free from European larch canker; or

(ii) Determines that it has been grown, processed, stored, or handled in such a manner that the regulated article is free of European larch canker; and

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>3</sup> to prevent the spread of European larch canker; and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector, except as provided in paragraph (c) of this section, for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, or processing (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of European larch canker because the disease will be destroyed by such specified handling, utilization, or processing;

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>3</sup> to prevent the spread of European larch canker; and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits may be issued by any person engaged in the business of growing, handling, or moving regulated articles provided such person has entered into and is operating under a compliance agreement. Any such person may execute and issue a certificate or limited permit for the interstate movement of a regulated article if an inspector has previously made the determination that the article is eligible for a certificate in accordance with § 301.91-5(a) or is eligible for a limited permit in accordance with § 301.91-5(b).

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

<sup>3</sup>An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[49 FR 18992, May 4, 1984, as amended at 66 FR 21053, Apr. 27, 2001]